IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4650 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KISHORBHAI NATVERLAL VADERA

Versus

DIST REGISTRAR

Appearance:

1. Special Civil Application No. 4650 of 2001

MR JAYANT PATEL for Petitioner No. 1

MS BR GAJJAR, AGP for Respondent No. 1,3

MR BM MANGUKIYA for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 06/08/2001

ORAL JUDGEMENT

1. Rule. Service of rule is waived by Ms.B.R.Gajjar, learned AGP on behalf of the respondents No.1 and 3 and Mr.B.M.Mangukiya, learned advocate on behalf of the respondent No.2.

2. Kishorbhai Natverlal Vadera, petitioner has filed this petition praying a writ in the nature of mandamus or any other appropriate writ, order or direction for quashing and setting aside the order dated 11th December, 2000, passed by the District Registrar, Co-operative Societies, District Amreli, Amreli - respondent No.1 herein. The District Registrar has passed the order and did not approve the bye-laws as per Rule 6 of the Rules they were received after the period of limitation.

3. When the matter was placed for hearing on 28th June, 2001, this Court has passed the following order:

> "Heard Mr.Jayant Patel, learned advocate for the petitioner and also perused the impugned order dated 11th December, 2000, passed by the District Registrar, Co-operative Societies, Amreli District. In view of the same, Notice returnable on 13th July, 2001. Meanwhile interim relief in terms of para 8(E). D.S. permitted today."

4. On behalf of the respondent No.1 affidavit-in-reply filed by Shri S.S.Vavadia, District Registrar, Co-operative Societies, Amreli. In para 4 the respondent has stated as under:

> "So far as paras 1, 3(1) and 3(2) of the memo of the petition are concerned, I say and submit that Annual General Meeting after completion of year 1999-2000 of Savarkundla Nagarik Sahakari Bank Ltd. Savarkundla, was met on 24.9.2000. The proposal for the sanction of the amendments of section in the bye laws which were carried out in these General Meeting were sent and same were received by the office of the present respondent on 7.12.2000."

> "As per the provisions laid down Rule 6(b) of Gujarat Co.op. Societies, Rules, 1965, the proposal for such or any amendment put by the General Meeting should have been received by the office of the present respondent within two months from the date of making an amendment which has not been received accordingly within the prescribed time and therefore such proposal was not taken into consideration and same was returned to the Bank."

5. Mr.Jayant Patel, learned advocate for the petitioner states that the Registrar has power to

consider the amendment in this behalf evenafter the period of limitation. He has also relied upon proviso (b) of Rule 6 in this behalf. He submitted that this procedure is a directory and not mandatory and the Registrar has power to condone the delay. In my view, procedure cannot take away substantial right of the petitioner and therefore to that extent the order of the Registrar is clearly illegal and bad in law. The petition is allowed to that extent.

6. The District Registrar will consider the proposal of the society now also and same will be decided in accordance with law. The District Registrar will consider the question without influencing the proviso (b) of Rule 6 and decide the same in accordance with law as expeditiously as possible preferably by 30th September, 2001.

7. In view of this, the learned advocate for the petitioner has not pressed for any other reliefs in this behalf and therefore no further reliefs can be entertained in this behalf.

8. In view of the aforesaid direction, the petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent.

(K.M. Mehta, J.)

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